No. 553.

Motion to advance.

Filed Jan. 21, 1898.

OFFICE SUPREME COURT, U. S.
JAMES H. MCKENNEY,
CLERK.

In the Supreme Court of the United States.

LARS THOMPSON,
Plaintiff in Error.

vs.

THE STATE OF UTAH,
Defendant in Error.

Case No. 553. October Term, 1897.

Motion to Advance.

Comes now the plaintiff in error in the above-entitled cause, by his counsel appearing in that behalf, and moves the Court to advance said cause to as speedy a hearing as will be convenient for the Court, and for grounds of this motion states as follows:

In this cause the plaintiff asks by his writ of error that this Court review the judgment of the Supreme Court of the State of Utah by which it affirmed a judgment of the trial Court, that the plaintiff be confined in the State Prison of the State of Utah for a term of three years, on a conviction of the crime of grand larceny.

The record shows that the crime of which the plaintiff here was convicted was committed in March, 1895, while Utah

was a Territory, and a lawful trial jury consisted of twelve persons and no less number. That plaintiff was tried in May, 1897, by a jury of only eight men and convicted, and upon this conviction said judgment was pronounced. Plaintiff claims, that as to offences committed under Territorial government, and particularly as to his offence, the Constitution and laws of the State of Utah, reducing the number of a trial jury, is *ex-post facto*, and void under Section 10, Article I, of the Constitution of the United States. The Supreme Court of the State of Utah upheld the validity of the State Constitution and law, and the plaintiff brings his writ of error, and meanwhile is serving his sentence in the Penitentiary, bail having been by the State Supreme Court denied him pending the determination of the matter in this Court.

The reason for this application to advance is: That plaintiff is in the State Prison of Utah serving his sentence, and is denied bail by the Supreme Court of the State of Utah.

J. W. N. WHITECOTTON,
Attorney for Plaintiff in Error.